

PFE/DCG: FEB 2023
GJ # 15

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	
)	
ELIO FRANCISCO REYES,)	Case No.
IRVIN ALEJANDRO RODARTE,)	
AND)	
STEPHEN CRISTOMO MARCELO)	
Defendants.)	

INDICTMENT

INTRODUCTION

The Grand Jury charges that:

At all times material to this Indictment:

1. Defendants ELIO REYES, STEPHEN MARCELO, and IRVIN RODARTE were associates.
2. Defendants ELIO REYES, STEPHEN MARCELO, and IRVIN RODARTE were residents of Harris County, Texas.
3. Gunprime, LLC, doing business as Birmingham Pistol Wholesale, was a federal firearms licensee (FFL) dealing in firearms and operating in Jefferson County, Alabama.
4. The Barrett .50 caliber semi-automatic rifle (hereinafter “Barrett rifle/rifles”)

is a military-grade firearm sold to civilians. It is designed for long-range use against armored vehicles and is sometimes referred to as the “.50 BMG.”

5. The Barrett rifles can be legally purchased by members of the general population.
6. A Firearms Transaction Record, or ATF Form 4473, is a six-page form prescribed by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) required to be completed when a person proposes to purchase a firearm from a Federal Firearms License (FFL) holder, such as a gun dealer. Form 4473 contains the purchaser’s name, address, date of birth, government-issued photo ID, National Instant Criminal Background Check System (NICS) background check transaction number, and a short affidavit stating that the purchaser is eligible to purchase firearms under federal law. It also contains the make, model, or serial number of the firearm.

COUNT ONE: [18 U.S.C. § 371]

The Grand Jury charges that:

1. The Grand Jury realleges and incorporates by reference those matters set forth in the Introduction of this Indictment as though fully stated herein.
2. From on or about the 12th day of July 2021, through on or about the 5th day of August 2021, in Jefferson County, within the Northern District of Alabama, the defendants,

**ELIO FRANCISCO REYES,
IRVIN ALEJANDRO RODARTE,
and STEPHEN CRISTOMO MARCELO,**

knowingly, willfully, and unlawfully combined, conspired, and agreed to commit offenses against the United States, that is, to illegally obtain and purchase firearms by false representations, in that ELIO FRANCISCO REYES, IRVIN ALEJANDRO RODARTE, and STEPHEN CRISTOMO MARCELO, did knowingly make and cause to be made false and fictitious written statements to employees of Birmingham Pistol Wholesale, which statements were intended and likely to deceive said employees of Birmingham Pistol Wholesale, as to a fact material to the lawfulness of such sale of each firearm under Chapter 44 of Title 18, United States Code, in that ELIO FRANCISCO REYES, IRVIN ALEJANDRO RODARTE, and STEPHEN CRISTOMO MARCELO falsely represented that they were the actual buyers as to each firearm on the Form 4473, when in truth and in fact, as the defendants then knew, they were not the actual buyers of the firearms, in violation of Title 18, United States Code, Section 922(a)(6), all in violation of Title 18, United States Code, Section 371.

OVERT ACTS

3. In furtherance of the conspiracy, and to accomplish the objects thereof, ELIO FRANCISCO REYES, IRVIN ALEJANDRO RODARTE, and STEPHEN CRISTOMO MARCELO committed and caused to be committed, in the Northern

District of Alabama and elsewhere, the following overt acts, among others:

a) On July 12, 2021, REYES, RODARTE, and Jorge Flores (self-proclaimed bodyguard of the Reyes family) arrived at Birmingham Pistol Wholesale (BPW) and purchased two Barrett rifles for approximately twenty-two-thousand, two-hundred sixty dollars (\$22,260) in United States Currency/Cash Payment.

b) On July 12, 2021, Irvin RODARTE completed ATF Form 4473, representing he was the actual firearm purchaser.

c) On July 21, 2021, REYES, MARCELO, and RODARTE arrived at Birmingham Pistol Wholesale and purchased four Barrett rifles for approximately thirty-six thousand-forty dollars (\$36,040) in United States Currency/Cash Payment.

d) On July 21, 2021, Irvin RODARTE completed ATF Form 4473, representing he was the actual firearm purchaser.

e) On July 23, 2021, REYES and MARCELO returned at night to Glenfield Court (Houston, TX) and unloaded the Barrett rifles late at night. Later that same day, all parties returned from a local trip to Armed Concepts (Texas FFL) with numerous firearms; later that evening, MARCELO and RODARTE packed up a black Toyota Rav-4 rental and left for Laredo, TX.

f) On July 29, 2021, MARCELO and RODARTE arrived at Birmingham Pistol Wholesale and purchased six Barrett rifles for approximately fifty-five-thousand-fourteen dollars (\$55,014) in United States Currency/Cash Payment.

g) On July 29, 2021, Irvin RODARTE completed ATF Form 4473, representing he was the actual firearm purchaser.

h) On July 30, 2021, MARCELO and RODARTE returned to Glenfield Court and unloaded Barrett rifles; MARCELO and RODARTE later left the residence in a white Ford Ranger rental with guns in green duffle bags.

i) On August 5, 2021, MARCELO and RODARTE arrived at Birmingham Pistol Wholesale and attempted to purchase six Barrett rifles; RODARTE paid approximately \$60,420 in cash.

j) On August 5, 2021, Irvin RODARTE completed ATF Form 4473, representing he was the actual firearm purchaser.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO: [18 U.S.C. § 922(a)(1)(A)]

The Grand Jury charges that:

On or about the 12th day of July 2021, through on or about the 5th day of August 2021, in Jefferson County, within the Northern District of Alabama, the defendants,

**ELIO FRANCISCO REYES,
IRVIN ALEJANDRO RODARTE, and
STEPHEN CRISTOMO MARCELO,**

not being licensed dealers, importers, or manufacturers of firearms within the meaning of Chapter 44, Title 18, United States Code, did willfully engage in the

business of dealing, importing, or manufacturing firearms, in violation of Title 18, United States Code, Section 922(a)(1)(A).

COUNT THREE: [18 U.S.C. § 924(n)]

The Grand Jury charges that:

On or about the 12th day of July 2021, through on or about the 5th day of August 2021, in Jefferson County, within the Northern District of Alabama, the defendants,

**ELIO FRANCISCO REYES,
IRVIN ALEJANDRO RODARTE, and
STEPHEN CRISTOMO MARCELO,**

with the intent to engage in conduct that constitutes a violation of Title 18, United States Code, Section 922(a)(1)(A), traveled from Texas into Alabama and acquired firearms in furtherance of the conspiracy to purchase firearms on behalf of various Mexican drug cartels.

COUNTS FOUR, FIVE, AND SIX: [18 U.S.C. § 922(a)(6)]

The Grand Jury charges that:

1. On or about the dates listed below, in Jefferson County, within the Northern District of Alabama, the defendants,

**ELIO FRANCISCO REYES,
IRVIN ALEJANDRO RODARTE,
and STEPHEN CRISTOMO MARCELO,**

while aided and abetted by each other, in connection with the acquisition and

attempted acquisition of a firearms, Barrett, M82A1, .50 caliber rifles, from Birmingham Pistol Wholesale, a licensed dealer, importer, manufacturer of firearms within the meaning of Chapter 44, Title 18, United States Code, knowingly made false and fictitious oral and written statements, which statement intended and likely to deceive said Birmingham Pistol Wholesale employee with respect to a fact material to the lawfulness of such sale of the firearm, on Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473, Firearm Transaction Record, representing that they were the actual buyers of the firearms, when, in fact, as they well knew, they were not the actual buyers of the firearms, in violation of Title 18, United States Code, Section 922(a)(6).

2. The allegations contained in paragraph one, above, are hereby realleged and incorporated by reference for each of the following counts, as further specified by dealer's name and type of firearm, as though fully set forth herein.

COUNT	DATE	LICENSED DEALER	FIREARM PURCHASED
4	7/12/2021	Birmingham Pistol Wholesale	2 Barrett Rifles
5	7/21/2021	Birmingham Pistol Wholesale	4 Barrett Rifles
6	7/29/2021	Birmingham Pistol Wholesale	6 Barrett Rifles

All in violation of Title 18, United States Code, Section 922(a)(6).

COUNT SEVEN: [18 U.S.C. § 924(b)]

The Grand Jury charges that:

On or about the 12th day of July 2021, through on or about the 5th day of August 2021, in Jefferson County, within the Northern District of Alabama, the defendants,

**ELIO FRANCISCO REYES,
IRVIN ALEJANDRO RODARTE, and
STEPHEN CRISTOMO MARCELO,**

with intent to commit an offense punishable by imprisonment for a term exceeding one year, or with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed, did ship, transport, and receive a firearm in interstate or foreign commerce, in violation of Title 18, United States Code, Section 924(b).

COUNT EIGHT: [18 U.S.C. § 924(a)(1)(A)]

The Grand Jury charges that:

On or about the 12th day of July 2021, through on or about the 5th day of August 2021, in Jefferson County, within the Northern District of Alabama, the defendants,

**ELIO FRANCISCO REYES,
IRVIN ALEJANDRO RODARTE, and
STEPHEN CRISTOMO MARCELO,**

knowingly made false statements and representations to Birmingham Pistol Wholesale, a person licensed under the provisions of Chapter 44 of Title 18, United States Code, with respect to information required by the provisions of Chapter 44 of

Title 18, United States Code, to be kept in the records of Birmingham Pistol Wholesale, in that the defendants knowingly made false and fictitious written statements to a fact material to the lawfulness of the sale of the firearms, on Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473, Firearm Transaction Record, representing that they were the actual buyers of the firearms, when, in fact, as they well knew, they were not the actual buyers of the firearms, in violation of Title 18, United States Code, Section 924(a)(1)(A).

NOTICE OF FORFEITURE

18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c)

1. The allegations contained in Count One of this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeitures pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c).

2. Upon conviction of the offense charged in Counts One through Eight of this Indictment for violation of 18 U.S.C. § 371, 18 U.S.C. § 922(a)(1)(A), 18 U.S.C. § 924(n), 18 U.S.C. § 922(a)(6), 18 U.S.C. § 924(b), and 18 U.S.C. § 924(a)(1)(A) the Defendant shall forfeit to the United States of America, pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), all firearms and ammunition involved in or used in the commission of the offense, including, but not limited to, **\$1913 dollars in United States currency, a black Apple Iphone, similar to the XS Max, in blue camo case, a blue Apple Iphone, similar to the 12 Pro Max, with a blue**

credit card holder on the back, a black Apple Iphone 12 Mini (A2176), (IMEI: #353005118683095), and a gold Apple Iphone XS (A1920), (imei: #356166094611380).

A TRUE BILL

/s/Electronic Signature

FOREPERSON OF THE GRAND JURY

PRIM F. ESCALONA
United States Attorney

/s/Electronic Signature

DARIUS C. GREENE
Assistant United States Attorney